

**NATURE OF CHARGE:** Misbranding, Section 403 (e) (2), the articles failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Drained Weight 3½ Ozs." was inaccurate. (Examination showed that the articles were short of the declared weight.)

**DISPOSITION:** May 29, 1952. Default decree of condemnation. The court ordered that the products be delivered to a charitable institution.

**18628. Adulteration of canned sauerkraut. U. S. v. 96 Dozen Cans \* \* \***  
(F. D. C. No. 32853. Sample No. 8348-L.)

**LIBEL FILED:** March 8, 1952, Northern District of New York.

**ALLEGED SHIPMENT:** On or about February 17, 1950, from Indianapolis, Ind.

**PRODUCT:** Sauerkraut. 96 dozen 1-pound, 11-ounce cans of the product at Oswego, N. Y.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of its chemical decomposition. The article was adulterated while held for sale after shipment in interstate commerce.

**DISPOSITION:** April 18, 1952. Default decree of condemnation and destruction.

### TOMATOES AND TOMATO PRODUCTS

**18629. Adulteration and misbranding of canned tomatoes. U. S. v. 381 Cases \* \* \*. (F. D. C. No. 32353. Sample No. 35277-L.)**

**LIBEL FILED:** January 4, 1952, District of North Dakota.

**ALLEGED SHIPMENT:** On or about October 8, 1951, by the Westwood Canning Co., from New Castle, Ind.

**PRODUCT:** 381 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Fargo, N. Dak.

**LABEL, IN PART:** (Can) "Wizdom Tomatoes."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned tomatoes, a food for which a definition and standard of identity has been prescribed by regulations; and its labeling failed to bear, as required by the regulations, the name of the optional ingredient, namely, calcium salt or calcium salts, present in the article.

**DISPOSITION:** April 17, 1952. Default decree of condemnation and destruction.

**18630. Adulteration of tomato juice. U. S. v. 5 Cases, etc. (and 1 other seizure action). (F. D. C. Nos. 32597, 32598. Sample Nos. 33291-L, 33296-L.)**

**LIBELS FILED:** January 16, 1952, Eastern District of Wisconsin.

**ALLEGED SHIPMENT:** On or about September 12 and 14, 1951, by the Bercut-Richards Packing Co., from Sacramento, Calif.

**PRODUCT:** 372 cases, each containing 48 5½-ounce cans, of tomato juice at Milwaukee, Wis.

**LABEL, IN PART:** (Can) "Sacramento Brand California Tomato Juice."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

**DISPOSITION:** February 21, 1952. Default decrees of condemnation and destruction.

**18631. Adulteration of tomato paste. U. S. v. 1,046 Cases, etc. (F. D. C. No. 32492. Sample Nos. 24900-L to 24904-L, incl.)**

**LIBEL FILED:** February 6, 1952, Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about April 18, 25, and 26, and May 15, 1951, by Flotill Products, Inc., from Jersey City, N. J., and New York, N. Y.

**PRODUCT:** 1,046 cases, each containing 6 10-pound cans, and 4,198 cases, each containing 6 10-pound cans or 6 9-pound, 15-ounce cans, of tomato paste at New Cumberland, Pa.

**LABEL, IN PART:** (Cans) "Doppio Concentrato Tomato Paste," "Tomato Paste Debar Brand," "Double Concentrated Tomato Paste," "La Romanella Brand Tomato Paste," or "Francesco Spinelli Africanella Tomato Paste With Basil Leaf."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** June 5, 1952. Default decree of condemnation and destruction.

**18632. Adulteration of tomato paste. U. S. v. 1,468 Cases \* \* \*. (F. D. C. No. 32469. Sample No. 24899-L.)**

**LIBEL FILED:** On or about January 31, 1952, Middle District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about April 2, 1951, by Bertman Food Products, from New York, N. Y.

**PRODUCT:** 1,468 cases, each containing 10 cans, of tomato paste at New Cumberland, Pa.

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

**DISPOSITION:** On June 1, 1952, Bertman Food Products filed a "disclaimer" in which it disclaimed having any interest whatsoever in the suit and denied that it had shipped the product in interstate commerce, stating that the U. S. Government was the shipper. It denied further that the article was adulterated when introduced into interstate commerce and that the court had jurisdiction over the proceedings.

A motion was filed by the Government to strike the "disclaimer" and to enter a default decree pursuant to the prayer of the libel. On July 16, 1952, the Government's motion came on for hearing, and after due consideration, the court ordered that the motion to strike be allowed and that the disclaimer be stricken. On July 17, 1952, the court entered an order providing for condemnation and destruction of the product.

**18633. Adulteration of tomato paste. U. S. v. 899 Cases \* \* \* (and 1 other seizure action). (F. D. C. Nos. 32419, 32423. Sample Nos. 22990-L, 23409-L.)**

**LIBELS FILED:** January 12 and 14, 1952, Northern District of New York and District of New Jersey.

**ALLEGED SHIPMENT:** On or about April 20 and June 18, 1951, by Merchants Trading Co., Inc., from Hoboken, N. J., and New York, N. Y.